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AMENDMENTS TO LB 304

1                   1. Strike the original sections and insert the following  
2 new sections:

3                   "Section 1. Sections 1 to 10 of this act shall be known  
4 and may be cited as the Peace Officer Employer-Employee Relations  
5 Act.

6                   Sec. 2. (1) The Legislature finds and declares that  
7 effective law enforcement is dependent upon the maintenance of  
8 stable relations between peace officers and their employers.  
9 Moreover, the existence of stable relations between peace officers  
10 and their employers will enhance law enforcement services provided  
11 to the citizens of Nebraska.

12                   (2) The purpose of the Peace Officer Employer-Employee  
13 Relations Act is to prescribe certain procedural rights for peace  
14 officers, particularly when they are placed under formal  
15 investigation or interrogation by their employer.

16                   (3) The act only applies to administrative actions and  
17 does not apply to criminal investigations of a peace officer except  
18 as provided in section 8 of this act.

19                   (4) The act does not apply to a police or sheriff's  
20 department that has adopted any procedure that, at a minimum,  
21 provides the peace officer the same rights and protections as  
22 provided under the act with regard to such procedure.

23                   Sec. 3. For purposes of the Peace Officer  
24 Employer-Employee Relations Act:

1           (1) Administrative proceeding means any nonjudicial  
2 hearing which is authorized to recommend, approve, or order the  
3 suspension, removal, or discharge of an officer;

4           (2) Formal investigation means the process of  
5 investigation ordered by a commanding officer during which the  
6 questioning of an officer is intended to gather evidence of  
7 misconduct which may be the basis for filing charges seeking his or  
8 her removal, discharge, or suspension in excess of three days;

9           (3) Informal inquiry means a meeting by supervisory or  
10 command personnel with a peace officer upon whom an allegation of  
11 misconduct has come to the attention of such supervisory or command  
12 personnel, the purpose of which meeting is to mediate a citizen  
13 complaint or discuss the facts to determine whether a formal  
14 investigation should be commenced;

15           (4) Interrogation means the questioning of a peace  
16 officer in connection with an alleged violation of the agency or  
17 unit rules which may be the basis for filing charges seeking his or  
18 her suspension, removal, or discharge. The term does not include  
19 questioning (a) as part of an informal inquiry or (b) relating to  
20 minor infractions of agency or unit rules which may be noted in the  
21 peace officer's personnel file; and

22           (5) Peace officer means any employee of a police or  
23 sheriff's department that is part of or administered by any  
24 political subdivision of the state who is responsible for the  
25 prevention and detection of crime and the enforcement of the laws  
26 of the state.

27           Sec. 4. When any peace officer is under formal

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1 investigation by his or her employer for alleged actions that could  
2 result in administrative sanctions being levied against the peace  
3 officer, the following requirements shall be adhered to:

4 (1) Any interrogation of the peace officer shall be  
5 conducted when the peace officer is on duty or during his or her  
6 normal waking hours unless the urgency of the formal investigation  
7 requires otherwise;

8 (2) Any interrogation of the peace officer shall be  
9 conducted at the employer's facility unless the urgency of the  
10 formal investigation requires otherwise;

11 (3) Prior to commencement of any interrogation session:

12 (a) If an employer chooses to record the interrogation of  
13 the peace officer or any party affiliated with the investigation,  
14 the employer shall notify the peace officer in writing;

15 (b) The peace officer shall be informed of the name and  
16 rank of the person in charge of the interrogation and all other  
17 persons who will be present during the interrogation;

18 (c) The peace officer shall be informed of the nature of  
19 the formal investigation, and the names of all known complainants  
20 shall be disclosed to the peace officer unless the chief  
21 administrator of the peace officer's employer determines that the  
22 identification of the complainant should not be disclosed because  
23 it is necessary for the protection of an informant or because  
24 disclosure would jeopardize or compromise the integrity or security  
25 of the formal investigation; and

26 (d) A reasonable attempt shall be made to notify the  
27 peace officer's commanding officer of the pending interrogation;

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1                   (4) A peace officer shall be informed of the nature of  
2 the formal investigation and shall receive a copy of the written  
3 formal complaint against him or her at least twenty-four hours  
4 prior to his or her interrogation by the employer. The  
5 twenty-four-hour period may be waived if the complaint alleges  
6 intoxication or drug incapacitation during on-duty status. The  
7 peace officer shall be permitted to have representation present  
8 during the interrogation. If the peace officer is not able to  
9 obtain and consult with his or her representation, the peace  
10 officer may be granted up to an additional twenty-four hours by the  
11 employer. The peace officer being interrogated shall be made aware  
12 of the fact that any statement may be used by the employer as part  
13 of the formal investigation;

14                   (5) The combined duration of a peace officer's work shift  
15 and any interrogation session shall not exceed fourteen hours  
16 within a twenty-four-hour period unless the urgency of the formal  
17 investigation requires otherwise;

18                   (6) There shall not be more than two interrogators at any  
19 given time;

20                   (7) A peace officer shall be allowed time to attend to  
21 physical necessities as they occur in the course of an  
22 interrogation; and

23                   (8) A peace officer shall not be subjected to offensive  
24 language or illegal coercion by his or her interrogator in the  
25 course of an interrogation.

26                   Sec. 5. After reviewing all the information collected in  
27 the course of a formal investigation of a peace officer, the chief

1 administrator of the peace officer's employer may order the peace  
2 officer to submit to a polygraph examination administered by a  
3 licensed polygraph examiner if:

4 (1) All other reasonable investigative means have been  
5 exhausted; and

6 (2) The peace officer has been advised of the chief  
7 administrator's reasons for ordering the polygraph examination.

8 Sec. 6. When any peace officer is under formal  
9 investigation for an administrative matter, the peace officer shall  
10 be permitted to produce any relevant documents, witnesses, or other  
11 evidence to support his or her case and he or she may cross-examine  
12 any adverse witnesses during any grievance process or appeal  
13 involving disciplinary action.

14 Sec. 7. (1) No document containing comments adverse to a  
15 peace officer shall be entered into his or her personnel file  
16 unless the peace officer has read and signed the document. When a  
17 peace officer refuses to sign a document containing such adverse  
18 comments, the document may be entered into the peace officer's  
19 personnel file if:

20 (a) The peace officer's refusal to sign the document is  
21 noted on the document by the chief administrator of the peace  
22 officer's employer; and

23 (b) The notation is witnessed by a third party.

24 (2) A peace officer may file a written response to any  
25 document containing adverse comments entered into his or her  
26 personnel file, and the response shall be filed with the peace  
27 officer's employer within thirty days after the document is entered

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1 into the personnel file. A peace officer's written response shall  
2 be attached to the document.

3           Sec. 8. When any peace officer is under administrative  
4 investigation and a determination is made to commence a criminal  
5 investigation, the peace officer shall be immediately notified of  
6 the investigation unless the chief administrator of the peace  
7 officer's employer determines that notification should not be given  
8 because it is necessary for the protection of an informant or  
9 because notification would jeopardize or compromise the integrity  
10 or security of the formal investigation. The peace officer shall  
11 be afforded all the protections set forth in the United States  
12 Constitution and the Constitution of Nebraska.

13           Sec. 9. A peace officer shall not be subjected to any  
14 retaliation by his or her employer due to his or her lawful  
15 exercise of his or her rights under the Peace Officer  
16 Employer-Employee Relations Act.

17           Sec. 10. If an employer violates any part of the Peace  
18 Officer Employer-Employee Relations Act, the peace officer shall  
19 have the right to petition the district court for monetary damages,  
20 attorney's fees, costs of the action, and equitable relief.".